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In re Application of	:	DECISION ON
BERMAN ET AL	:	
Application No.: 10/632,991	:	PETITION UNDER
Filing Date: 12 October 1999	:	
Attorney's Docket No.: VVMDNZ00201	:	37 CFR 1.78(a)(3)

This is in response to applicant's communication "RENEWED PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 35 U.S.C. 120" filed 05 March 2009.

BACKGROUND

In a decision from this Office on 24 February 2009, the petition under 37 CFR 1.78(a)(3) was dismissed because item (1) was not satisfied.

On 05 March 2009, petitioner filed a renewed petition under 37 CFR 1.78(3) to claim priority under 35 USC 120.

DISCUSSION

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) of this section and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition has still not satisfied item (1) above.

Regarding requirement (1), a proper reference to the prior-filed applications has not been provided as required by 37 CFR 1.78(a)(2). In this instance, appropriate references have not been made in each intermediate application in the chain of prior applications. Specifically, application 09/844,687 does not properly reference prior applications 09/547,433 and PCT/US99/023823. Note MPEP 201.11 Section III (C).

Regarding requirement (2), the surcharge has been provided.

Regarding requirement (3), the proper statement has been provided.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

Further correspondence with respect to this matter should be addressed as follows:

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